

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 672
HOUSE BILL 937

AN ACT TO ESTABLISH A UNIFORM EVICTION POLICY.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 42 of the General Statutes is amended by adding a new section to read:

"§ 42-37. Notice to tenant of execution of writ for possession of property; storage of evicted tenant's personal property. – (a) When sheriff may remove property. Before removing a tenant's personal property from demised premises pursuant to a writ for possession of real property or an order, the sheriff shall give the tenant notice of the approximate time the writ will be executed, to be no more than seven days from the sheriff's receipt thereof. The sheriff shall remove the tenant's property, as provided in the writ, no earlier than the time specified in the notice, unless:

- (1) the landlord, or his authorized agent, signs a statement saying that the tenant's property can remain on the premises, in which case the sheriff shall simply lock the premises; or
- (2) the landlord, or his authorized agent, signs a statement saying that the landlord does not want to eject the tenant because the tenant has paid all court costs charged to him and has satisfied his indebtedness to the landlord.

Upon receipt of either statement by the landlord, the sheriff shall return the writ unexecuted to the issuing clerk of court and shall make a notation on the writ of his reasons. The sheriff shall attach a copy of the landlord's statement to the writ. If the writ is returned unexecuted because the landlord signed a statement described in subdivision (2) of this subsection, the clerk shall make an entry of satisfaction on the judgment docket. If the sheriff padlocks, the costs of the proceeding shall be charged as part of the court costs.

(b) Sheriff may store property. When the sheriff removes the personal property of an evicted tenant from demised premises pursuant to a writ or order the tenant shall take possession of his property. If the tenant fails or refuses to take possession of his property, the sheriff may deliver the property to any storage warehouse in the county, or in an adjoining county if no storage warehouse is located in that county, for storage. The sheriff may require the landlord to advance the cost of delivering the property to a storage warehouse plus the cost of one month's storage before delivering the property to a storage warehouse. If a landlord refuses to advance these costs when requested to do so by the sheriff, the sheriff shall not remove the tenant's property, but shall return the writ unexecuted to the issuing clerk of court with a notation thereon of his reason for not

executing the writ. All costs of summary ejectment, execution and storage proceedings shall be charged to the tenant as court costs and shall constitute a lien against the stored property or a claim against any remaining balance of the proceeds of a warehouseman's lien sale.

(c) Liability of the sheriff. A sheriff who stores a tenant's property pursuant to this section and any person acting under the sheriff's direction, control, or employment shall be liable for any claims arising out of the willful or wanton negligence in storing the tenant's property.

(d) Notice. The notice required by subsection (a) shall be made by one of the following methods:

- (1) by delivering a copy of the notice to the tenant or his authorized agent at least two days before the time stated in the notice for serving the writ;
- (2) by leaving a copy of the notice at the tenant's dwelling or usual place of abode with a person of suitable age and discretion who resides there at least two days before the time stated in the notice for serving the writ; or
- (3) by mailing a copy of the notice by first class mail to the tenant at his last known address at least five days before the time stated in the notice for serving the writ."

Sec. 2. Chapter 838 of the 1953 Session Laws and Chapter 464 of the 1975 Session Laws are repealed.

Sec. 3. G.S. 42-51 as it appears in Volume 2A, 1981 Cumulative Supplement, is amended on the fifth line by inserting between the words "tenant" and "or" the language "costs of removal and storage of tenant's property after a summary ejectment proceeding".

Sec. 4. This act shall become effective July 1, 1983, and shall apply to writs of possession for real property and orders that are issued on or after that date.

In the General Assembly read three times and ratified, this the 1st day of July, 1983.